

IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

May 16, 1984

You inquire as to the Massachusetts income tax treatment of compensation you received as a Massachusetts resident from both Massachusetts and foreign sources for university lectures and research performed in Austria during a seven month period in 1983. You also inquire as to the Massachusetts income tax treatment of moving, travel and other work related expenses you incurred in connection with your work in Austria.

A citizen of the United States living abroad who becomes a bona fide resident of a foreign country for an uninterrupted period which includes an entire taxable year, or a citizen or resident of the United States who during any twelve consecutive months is present in a foreign country during at least three hundred thirty full days, may elect to exclude from federal gross income housing costs and foreign earned income. (Internal Revenue Code, Section 911).

Massachusetts gross income is federal gross income as defined under the Internal Revenue Code as amended on February 1, 1983, with further additions and deductions. (G.L. c. 62, §§ 1, 2). Earned income from foreign sources, excluded under Code Section 911, is added to federal gross income in determining Massachusetts gross income. (G.L. c. 62, § 2(a)(1)(c)).

A deduction from federal gross income is allowed for moving expenses paid or incurred by a taxpayer if his new work place is thirty-five miles farther from his former residence than was his former work place and the taxpayer is a full-time employee in the new work location for

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thirty-nine weeks during the twelve month period subsequent to his arrival. (I.R.C. §§ 62, 217). Massachusetts General Laws Chapter 62, Section 2(d)(3) specifically disallows the deduction available under Section 217 of the Code to the extent that it is in excess of the amount reimbursed by the taxpayer's employer and included in Massachusetts gross income.

Subject to certain restrictions and limitations, a deduction from federal gross income is allowed for all ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including traveling expenses incurred while away from home in pursuit of a trade or business. (I.R.C. §§ 62, 162). Generally, travel expenses of family members accompanying a taxpayer on a business trip are not deductible for federal income tax purposes. (U.S. Treas. Reg. 1.162-2(c)).

In determining Massachusetts Part B adjusted gross income, the deductions allowed in determining federal adjusted gross income (that is, Code Section 62 deductions) generally are allowed. (G.L. c. 62, § 2(d)). Thus travel expenses paid or incurred while away from home in pursuit of a trade or business and deductible under Code Section 62 are deductible for Massachusetts income tax purposes. Federal itemized deductions, including itemized deductions for nonreimbursed trade or business expenses of an employee, are not allowed for Massachusetts personal income tax purposes.

Based on the foregoing, it is ruled that:

1. The compensation you received in 1983 from both Massachusetts and foreign sources for your services abroad is subject to Massachusetts income taxation.

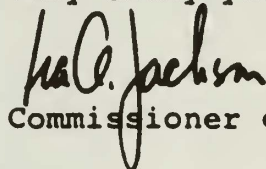
2. Moving expenses that were not reimbursed by your employer and included in your Massachusetts gross income are not deductible for Massachusetts income tax purposes whether or not you are entitled to a deduction for moving expenses for federal income tax purposes.

3. For Massachusetts income tax purposes you may deduct travel expenses paid or incurred while away from home in pursuit of a trade or business if and to the extent you are entitled to such a deduction federally.

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4. For Massachusetts income tax purposes you may deduct other trade or business expenses only if a deduction is allowed for such expenses under Code Section 62 in determining your federal adjusted gross income.

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. C. Jackson", written in a cursive style.

Commissioner of Revenue

IAJ:SFR:mf

LR 84-40